

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND

Index No.

WENDY VAPHIDES and CHARLES VAPHIDES,

Plaintiff Designates
Richmond County as
the place of trial

Plaintiff,

The basis of the
venue is County of
occurrence

-against-

THE CITY OF NEW YORK, THE POLICE
DEPARTMENT OF THE CITY OF NEW YORK,
and P.O. CARR,

SUMMONS

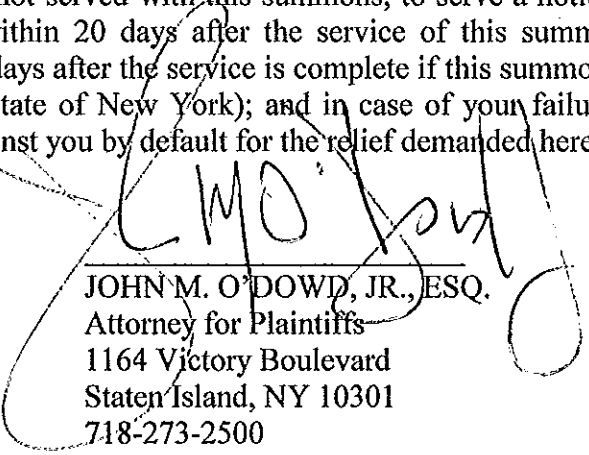
Incident Location:
6 Cherrywood Court
Staten Island, NY
County of Richmond

Defendants.

To the above named Defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded herein.

Dated: Staten Island, New York
August 20, 2013


JOHN M. O'DOWD, JR., ESQ.
Attorney for Plaintiffs
1164 Victory Boulevard
Staten Island, NY 10301
718-273-2500

Defendants' Addresses:

THE CITY OF NEW YORK – 100 Church Street, New York, New York 10007
NEW YORK CITY POLICE DEPARTMENT – One Police Plaza, New York, NY
P.O. CARR- NYPD 120th Precinct, 2320 Hylan Boulevard, Staten Island, New York 10306

Upon your failure to appear, judgment will be taken against you by default.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND

-----X
WENDY VAPHIDES and CHARLES VAPHIDES,

INDEX NO.

Plaintiffs,

VERIFIED COMPLAINT

-against-

THE CITY OF NEW YORK, THE POLICE
DEPARTMENT OF THE CITY OF NEW YORK,
and P.O. CARR,

Defendants.

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Plaintiffs, complaining of the defendants, by their attorney, JOHN M. O'DOWD, JR., ESQ., respectfully set forth to this Court and allege, upon information and belief:

AS AND FOR A FIRST CAUSE OF ACTION

FIRST: That at all the times hereinafter mentioned, the plaintiffs were residents of the County of Richmond, City and State of New York.

SECOND: That the defendant, THE CITY OF NEW YORK, (hereinafter referred to as "CITY") was, at all times hereinafter mentioned, a domestic municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

THIRD: That upon information and belief, at all times herein mentioned, the defendant P.O. CARR was and still is a police officer working in the County of Richmond, City and State of New York.

FOURTH: That plaintiff served a Notice of Claim on the defendant, "CITY", on August 23, 2012.

FIFTH: That the defendant, "CITY", scheduled multiple Statutory Hearings on these claims of the plaintiffs which have all been adjourned due to an affiliated criminal prosecution of the plaintiff, Wendy Vaphides, which is currently scheduled for Trial in the Criminal Court of the City of New York, Staten Island, NY, on September 9, 2013. The subject Statutory Hearing is presently scheduled for August 28, 2013.

SIXTH: That at least 30 days have elapsed since the demands or claims in which these actions herein were brought and presented to the defendant, "CITY", for judgment and the defendant has refused and neglected to make an adjustment or payment thereof 30 days after said presentation. Not more than one year and ninety days has elapsed since the accrual of said cause of action.

SEVENTH: That upon information and belief, at all times herein mentioned, the defendant, THE POLICE DEPARTMENT OF THE CITY OF NEW YORK, was at all times hereinafter mentioned, a domestic municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

EIGHTH: That on June 1, 2012, the plaintiff was lawfully at the location of 6 Cherrywood Court, Staten Island, New York, located in the County of Richmond, City and State of New York.

NINTH: That on June 1, 2012, at approximately 11:00a.m., the plaintiff was lawfully on the premises of 6 Cherrywood Court, Staten Island, New York, when the defendant, P.O. CARR, and his unidentified partner, who is described as being approximately 6' 6" in height, of Latin or Caucasian descent and assigned to Patrol Car No. 5440, approached and assaulted the plaintiff. The defendant, THE POLICE DEPARTMENT OF THE CITY OF NEW YORK, arrested the plaintiff for disorderly conduct, attempted assault and resisting arrest. Defendant, THE POLICE DEPARTMENT OF THE CITY OF NEW YORK, improperly arrested the plaintiff when she had not committed a crime, nor did she do any act to warrant an arrest. That the defendant, THE POLICE DEPARTMENT OF THE CITY OF NEW YORK, as an agent, servant and/or employee of the defendant negligently, carelessly and recklessly handcuffed the plaintiff, assaulted the plaintiff, falsely arrested the plaintiff without probable cause or justification, detained her improperly, maliciously prosecuted her, and allowed the claimant to sustain permanent physical injuries, as well as embarrassment in the community and embarrassment and impact on her reputation. Further, the defendants are liable for punitive damages as well as violation of 1983 of the United States Code; the defendants improperly arrested and detained the plaintiff, improperly touched the plaintiff, such actions are actually deemed an assault and battery, and acted outside the scope of their employment; that the defendants were further negligent, careless and grossly reckless to the plaintiff. That the defendant, "CITY", its agents, servants and/or employees were negligent, careless, and reckless, and the POLICE DEPARTMENT OF THE CITY OF NEW YORK failed to properly supervise and train these individuals and such actions were gross negligent, grossly careless, and grossly reckless, and in violation of Section 1983 of the United States Code, also causing embarrassment in the community, harm to her reputation, restraining her of her liberty, and exacerbation of injuries to cause serious and permanent physical injuries.

TENTH: That the plaintiffs are not subject to limitations of Article XVI of the CPLR pursuant to exclusions therein.

ELEVENTH: That by reasoning of the foregoing, the plaintiff, Wendy Vaphides, has been caused to expend monies and is disabled due to the injuries as aforementioned, upon information and belief, of a permanent character by reason thereof that the plaintiff is prevented from following her usual duties and is informed and believes that in the future will be prevented to follow her regular duties, all to plaintiff's damage in an amount which exceeds the jurisdictional limits of the lower courts of the State of New York.

AS AND FOR A SECOND CAUSE OF ACTION

TWELFTH: That the plaintiff, Wendy Vaphides, repeats each and every allegation set forth in Paragraphs "FIRST" through "ELEVENTH," as if more fully set forth herein.

THIRTEENTH: That the defendants acted in such a fashion to improperly detain the plaintiff.

FOURTEENTH: That the plaintiff was improperly arrested without committing a crime and without the police having probable cause.

FIFTEENTH: That the defendants acted in an intentional, reckless and negligent manner in improperly and falsely arresting the plaintiff.

SIXTEENTH: That the defendants improperly treated the plaintiff in the manner of the arrest, handling of the arrest, prosecuting the arrest and threatening the plaintiff, thus causing her severe emotional and physical injuries as well as punitive damages.

SEVENTEENTH: That by reason of the premises as aforesaid, the plaintiff is disabled due to the injuries upon information believed of a permanent character and by reason thereof the plaintiff is prevented from following her usual duties and it is believed in the future will be prevented to follow her usual duties, all to the plaintiff's damages in a sum which exceeds the jurisdictional limitations of the lower courts of the State of New York.

AS AND FOR A THIRD CAUSE OF ACTION

EIGHTEENTH: That the plaintiff, Wendy Vaphides, repeats each and every allegation set forth in Paragraphs "FIRST" through "SEVENTEENTH," as if more fully set forth herein.

NINETEENTH: That the plaintiff was denied her freedom and treated in such a fashion to deny her basic liberty and civil rights.

TWENTIETH: That by reason of the premises as aforesaid, the plaintiff is disabled due to the injuries which, upon information and belief, are of a permanent character and by reason thereof the plaintiff is prevented from following her usual duties and it is believed in the future will be prevented to follow her usual duties, all to the plaintiff's damages in a sum which exceeds the jurisdictional limitations of the lower courts of the State of New York.

AS AND FOR A FOURTH CAUSE OF ACTION

TWENTY-FIRST: That the plaintiff, Charles Vaphides, repeats, reiterates and realleges each and every allegation contained in paragraphs "FIRST" through "TWENTIETH" of this complaint, with the same force and effect as if more fully set forth at length herein.

TWENTY-SECOND: That at all times hereinafter mentioned, the plaintiff, Charles Vaphides, was and still is the lawful spouse of the plaintiff, Wendy Vaphides, and, as such, was and is entitled to her services, society and consortium.

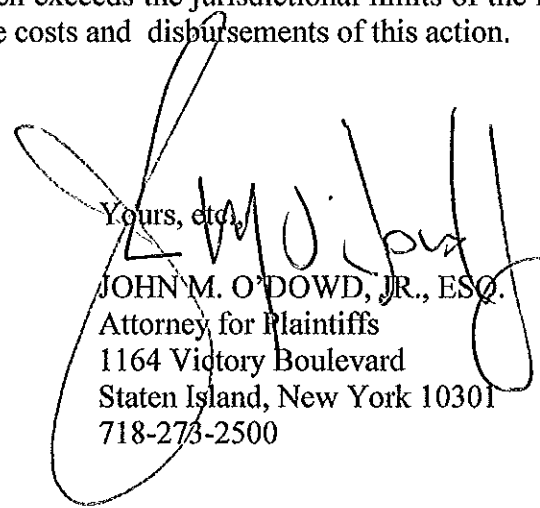
TWENTY-THIRD: That as a result of the defendants' negligence, thereby causing serious personal injuries to the plaintiff, Wendy Vaphides, the plaintiff, Charles Vaphides, was caused to expend diverse sums of money in an effort to cure his spouse, and was and still is deprived of the services, society and consortium of his spouse, the plaintiff, Wendy Vaphides.

TWENTY-FOURTH: That by reason of the foregoing premises, the plaintiff, Charles Vaphides, has been damaged in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise exercise jurisdiction over this matter.

WHEREFORE, the plaintiff, Wendy Vaphides, demands judgment against the defendants in the First Cause of Action in an amount which exceeds the jurisdictional limits of the lower courts of the State of New York, in the Second Cause of Action in an amount which exceeds the jurisdictional limits of the lower courts of the State of New York, and in the Third Cause of Action in an amount which exceeds the jurisdictional limits of the lower courts of the State of New York; the plaintiff, Charles Vaphides, demands judgment against the defendants in the Fourth Cause of Action in an amount which exceeds the jurisdictional limits of the lower courts of the State of New York; together with the costs and disbursements of this action.

Dated: Staten Island, New York
August 20, 2013

Yours, etc.,


JOHN M. O'DOWD, JR., ESQ.
Attorney for Plaintiffs
1164 Victory Boulevard
Staten Island, New York 10301
718-273-2500

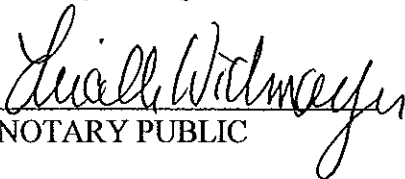
INDIVIDUAL VERIFICATION

STATE OF NEW YORK)
)ss:
COUNTY OF RICHMOND)

WENDY VAPHIDES, being duly sworn, deposes and says, that deponent is the plaintiff in the within action; that deponent has read the foregoing SUMMONS and VERIFIED COMPLAINT and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes them to be true.


WENDY VAPHIDES

Sworn to before me this
20th day of August, 2013


NOTARY PUBLIC

LUCILLE WIDMAYER
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01WI6166343
QUALIFIED IN RICHMOND COUNTY
TERM EXPIRES MAY 21, 2014

Index No.

Year 20

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND

-----X

WENDY VAPHIDES and CHARLES VAPHIDES,

Plaintiffs,

-against-

THE CITY OF NEW YORK, THE POLICE DEPARTMENT
OF THE CITY OF NEW YORK and P.O. CARR,

Defendants.

-----X

SUMMONS AND VERIFIED COMPLAINT

THE LAW FIRM OF
LAW FIRM OF JOHN M. O'DOWD, JR.

Attorney for Plaintiffs
1164 Victory Boulevard
Staten Island, New York 10301
718-273-2500

To

Signature (Rule 130-1.-A)

Attorney(s) for

John M. O'Dowd, Jr. .

Service of a copy of the within

is hereby admitted.

Dated:

Attorney for